FILED
Court of Appeals
Division I
State of Washington
9/23/2019 2:40 PM

No. 79447-7

---

**COURT OF APPEALS, DIVISION I,
OF THE STATE OF WASHINGTON**

---

S. MICHEAL KUNATH *et al.*,

Respondents,

v.

CITY OF SEATTLE *et al.*,

Appellant.

---

# APPELLANT ECONOMIC OPPORTUNITY INSTITUTE'S RESPONSE TO MOTION OF LEVINE AND BURKE RESPONDENTS FOR RECONSIDERATION

---

SMITH & LOWNEY, PLLC

Knoll D. Lowney, WSBA No. 23457
Claire E. Tonry, WSBA No. 44497
2317 E. John St.
Seattle, WA 98112
(206) 860-2883

*Attorneys for Economic Opportunity Institute*

TABLE OF CONTENTS

TABLE OF AUTHORITIES

**Cases**



**Statutes**



**Other Authorities**



**Regulations**

**Washington Constitutional Provisions**

## I. INTRODUCTION

Burke and Levine plaintiffs' motion for reconsideration (the "Motion") is a waste of the Court's time for at least three reasons:

First, plaintiffs prevailed on appeal, so their Motion would not change the outcome.

Second, the Court already rejected plaintiff Kunath's motion to reconsider its single-subject ruling and this Motion presents no grounds for a different result the third time around. Indeed, Burke and Levine plaintiffs' entire argument on the single-subject issue is based on mistaken belief that legislative history is essential to whether a bill embraces more than one subject. But controlling precedent expressly rejects this argument. Moreover, Burke and Levine plaintiffs never even attempt to refute the Court's conclusion that the provisions of the bill are not germane to one another. They simply ignore that critical part of the test. Reconsideration is not warranted for these misguided arguments.

Finally, the Court correctly held that RCW 84.36.070's prohibition on *ad valorem* taxes on certain intangible personal property does not apply to Seattle's income tax. Plaintiffs' argument to the contrary ignores well-settled rules of statutory interpretation. In addition, plaintiffs' argument

must be rejected because it would directly conflict with the Legislature's B&O tax (an "*ad valorem*" tax on gross receipts, revenue, and income).

Motions for reconsideration are rarely granted. Burke and Levine plaintiffs' Motion fails to provide any reason for exceptional treatment. The Motion should be denied.

## II. RESPONDING PARTY AND RELIEF SOUGHT

Appellant and intervenor below, Economic Opportunity Institute ("EOI"), requests that the Court deny Burke and Levine plaintiffs' Motion.

## III. ARGUMENT

### A. The Court correctly ruled that SSB 4313 violated the single-subject rule.

#### 1. Plaintiffs continue to ignore the critical requirement that the provisions of the bill be germane to one another.

The Court's ruling correctly emphasizes that, to satisfy article II, section 19's single-subject rule, the matters within a bill must be "'germane to the general title and to one another.'" Op. at 21 (quoting *Filo Foods LLC v. City of SeaTac*, 183 Wn.2d 770, 782-83, 357 P.3d 1040 (2015) (emphasis added by this Court)). The Court held that the subsections of Substitute Senate Bill 4313 "are not adequately germane to each other," Op. at 25, and noted that plaintiffs "fail to identify the required rational unity between all five operative sections of the bill," *id.* at 24.

The Motion does not even attempt to address this critical failure — it omits the second prong of the rational unity test entirely. *See* Mot. at 7 (disputing only whether the Court used the proper test for "determining that a provision in a bill had the requisite nexus to the bill's general title."). *And see generally id.* at 9–14. Accordingly, even if the Court were to accept the arguments in the Motion, it would have no impact on the Court's decision that SSB 4313 violates the single-subject rule because its subsections "are not adequately germane to each other." Since the Motion does not speak to the second, dispositive prong of the "rational unity" test, there is no reason to revisit the Court's article II, section 19 decision.

**2. The Court properly discounted the bill's legislative history.**

In addition to being inconsequential, the article II, section 19 argument that plaintiffs *do* make in the Motion should be rejected because it is contrary to controlling authority. Plaintiffs argue that the Court should have analyzed SSB 4313's legislative history for evidence of "logrolling" or "riding," but the constitution and multiple Washington Supreme Court decisions support the Court's decision to discount the legislative history.

Section 19 states in full "No bill shall embrace more than one subject, and that shall be expressed in the title." Nothing in the text requires a showing of "logrolling," "riding," or any other malfeasance before the

Court enforces section 19. *See Washington Toll Bridge Auth. v. State*, 49 Wn.2d 520, 525, 304 P.2d 676 (1956) ("The plain language of [article II, section 19] makes it mandatory that the members of the legislature be given the opportunity to consider legislative subjects in separate bills.")

Consistent with the plain language of the constitution, the Supreme Court has held that the section 19 analysis "is limited to the title and body of the act." *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 632, 71 P.3d 644 (2003) (citing *Amalgamated Transit v. State*, 142 Wn.2d 183, 212, 11 P.3d 762, 783-84 (2000)). The Court cited *Citizens for Responsible Wildlife Management* for exactly this proposition and held that "[e]vidence beyond the bill's four corners is beyond the court's inquiry." Op. at 19. Burke and Levine plaintiffs now argue that *Citizens for Responsible Wildlife Management* "did not foreclose consideration of legislative history materials." Mot. at 9. But there is no need to quibble over the exact scope of the *Citizens* ruling because the Supreme Court *explicitly* foreclosed consideration of legislative history materials in *Amalgamated Transit v. State*. In *Amalgamated Transit*, the court rejected a request to "consider the *Voters Pamphlet* and 'legislative history' as evidence of rational unity," and held that "regardless of what is in the *Voters Pamphlet* or the history of the initiative, the rational relationship inquiry centers on what is in the measure itself, i.e., whether the measure contains

unrelated laws." 142 Wn.2d 183, 212. The Court's decision to adhere to this binding precedent does not need to be reconsidered.

**3. Traditional city tax authority and establishing a combined city-county government have not historically been treated as one subject.**

Burke and Levine plaintiffs point out (and this Court acknowledged) that the Supreme Court does consider whether the Legislature has historically addressed issues together when deciding whether a bill satisfies the single-subject rule. Mot. at 11 (citing *Lee v. State*, 185 Wn.2d 608, 623, 374 P.3d 157, 165 (2016); *Wash. Ass'n for Substance Abuse & Violence Prevention v. State*, 174 Wn.2d 642, 657, 278 P.3d 632, 641 (2012) ("*WASAVP*")). For example, in *WASAVP* the Supreme Court held that the legislature's historic recognition of the relationship between liquor regulation and public welfare reinforced the court's finding of rational unity. *WASAVP* at 657. However, plaintiffs improperly conflate this broader inquiry into regulatory traditions with an analysis of a specific bill's legislative history for evidence of unsavory legislative tactics. The latter is not relevant, as explained above. The former inquiry supports the Court's decision that SSB 4313 violates the single-subject rule.

The Legislature has not historically treated the subjects of traditional cities' tax authority and the establishment of combined city-county governments together. Washington's original constitution provided for

cities, whereas city-counties were only authorized by a 1948 constitutional amendment. Const., art. XI, § 10; Amend. 23 (1948). City-counties are exempt from a whole host of constitutional provisions that apply to cities, counties, and townships. Const., art. XI, § 16. Among these is an exemption for city-counties from the constitutional requirement that property taxes be uniform. *Id*. The Legislature has enacted numerous statutes and amendments governing cities which appear in Chapters 35 RCW ("Cities and Towns") and 35A RCW ("Optional Municipal Code"). In contrast, the Legislature has passed a single bill concerning city-counties that is codified in Chapter 36 RCW, which otherwise and primarily concerns counties. This history stands in stark contrast to the situation in *WASAVP* where the court held that the fact that spirits and wine "have been governed as such by the same act for decades" indicates they are the same subject. *WASAVP* at 659.

**4. The legislative history indicates that SSB 4313 violated the spirit of the single subject rule.**

Even if the Court were to consider SSB 4313's legislative history, as plaintiffs request, that history (or lack thereof) would reinforce the Court's decision that the bill violates the single-subject rule.

Before getting into the scant legislative history it is important to note that combatting logrolling is not section 19's only purpose. Another equally important purpose is "to assure that the members of the legislature and the

public are generally aware of what is contained in proposed new laws." *Lee v. State*, 185 Wn. 2d at 620, (internal citations and quotations omitted).

SSB 4313's legislative history strongly suggests that legislators were generally unaware that they were voting on a bill that contained a restriction on traditional cities' and counties' taxing authority. Throughout the committee reports and congressional hearings, SSB 4313 is referred to as though it only concerns the novel combined city-county form of government. CP 291, 293, 295. The bill received no substantive debate, which is surprising for any bill that touches on the always-controversial issue of the authority of existing cities and counties. *See* CP at 305-307, 311.

SSB 4313 quickly made its way to the House, where one Representative moved to amend the bill to require border counties to levy an additional sales tax. CP at 312. The Speaker of the House ruled that the proposed amendment was outside the scope and object of SSB 4313 because the bill "pertains to consolidation of city and county and the method of allocating state revenue in connection with the consolidation" such that the amendment pertaining to taxation by traditional counties was "out of order." *Id.* The Speaker's reasoning applies equally to section 3 of SSB 4313: the provision pertains to traditional, stand-alone county taxes and is therefore out of place in a bill pertaining to consolidation city-county government.

The most logical explanation for the House's failure to catch the inconsistency is that the legislators were unaware that that SSB 4313 included any provisions on traditional cities' and counties' taxing authority. This history indicates that SSB 4313 violated the spirit of article II, section 19, in addition to its letter.

Nevertheless, Burke and Levine plaintiffs focus on the legislative history of SSB 4313 in an attempt to revive their argument that the Court should ignore section 19 and focus only on article XI, section 16, which requires that restrictions on city-counties also apply to traditional cities and counties. The parties already fully addressed this argument and the Court rejected it.

To summarize, there are four reasons the Court properly rejected this argument:

First, the Legislature cannot prioritize compliance with one constitutional requirement over another; it must comply with both. *State v. Parmenter*, 50 Wash. 164, 175, 96 P. 1047 (1908) ("One requirement of the Constitution is as mandatory in its nature as another.")

Second, the argument only supports rational unity *within* SSB 4313's section 3 itself, whereas the test requires rational unity "*between* the operative provisions," *Lee*, 185 Wn. 2d at 620-21 (emphasis added).

Third, the substantive restriction on the taxing authority of traditional cities and counties is no mere "ancillary" provision that can be slipped into legislation under the guise of being necessary to implement the general purpose of the bill.

Finally, the Legislature could have passed a stand-alone bill addressing taxation powers of all three forms of local government and complied with all provisions of the constitution. There is simply no need to prioritize article XI, section 16 over article II, section 19.

## B. If the Court reconsiders or amends its decision it should also address EOI's article II, section 37 argument.

Because the Court held "SSB 4313 is unconstitutional in its entirety for violating article II, section 19, [it did] not need to consider whether section three of SSB 4313 also violated article II, section 37." Op. at 26. However, if the Court were to reconsider its section 19 decision, it would need to consider whether SSB 4313 violated section 37. As explained in EOI's prior briefing, SSB 4313 flagrantly violates section 37. EOI Opening Brief at 20–27; EOI Reply Brief at 11–14 (explaining that SSB 4313 failed to set forth its amendments to the expressly broad taxing authority granted in Title 35A RCW, and that this case is indistinguishable from *Washington Education Association v. State,* 93 Wn.2d 37, 41, 604 P.2d 950 (1980)).

Accordingly, even if the Court were to reconsider its decision, the ultimate outcome would not change.

## C. The Court correctly held that RCW 84.36.070 does not apply to Seattle's income tax.

As the Court recognized, "neither Seattle nor EOI argued for the applicability of [Seattle's statutory authority for property taxes] because both contend that the income tax is not a property tax at all." Decision at 12, n. 58. Regardless, the Court correctly held that RCW 84.36.070's prohibition on *ad valorem* taxes on certain intangible personal property does not apply to income taxes.[1]

### 1. RCW 84.36.070(2)'s definition of "intangible personal property" does not encompass income.

RCW 84.36.070(2) establishes three categories of "intangible personal property," none of which include income:

The first category is "All moneys and credits." RCW 84.36.070(2)(a). "Moneys" is defined to mean "coin or paper money issued by the United States government," RCW 84.04.060, neither of which is "income." "Credits" means assets owed to the taxpayer by a debtor, such as mortgages, notes, stocks, and bonds, *see* RCW 84.36.070(2)(a), which is hardly synonymous with "income." *Cf. Hebert v. Litig. Document Grp.*,

[1] EOI does not concede that Seattle's income tax is an *ad valorem* tax and reserves the right to address that issue if the Court grants reconsideration.

*Inc.*, No. 2:17-cv-01536-KJD-CWH, 2019 U.S. Dist. LEXIS 13935, at *11 (D. Nev. Jan. 28, 2019) (distinguishing a creditor-debtor relationship from an employer-employee relationship).

The second category is certain personal service contracts and sports franchises — plainly not income. RCW 84.36.070(2)(b).

The third category is:

> Other intangible personal property such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, or integrity of a business.

RCW 84.36.070(2)(c). Again, "income" is not on the list.

Nor does this third category encompass "income" merely because it begins with the phrase "Other intangible personal property such as. . ." RCW 84.36.070(2)(c). Plaintiffs' argument that RCW 84.36.070 applies to "*all* personal property" and that RCW 84.36.070's expressly listed examples are irrelevant is contrary to the ejusdem generis principle of statutory construction.

> The ejusdem generis rule requires that general terms appearing in a statute in connection with specific terms are to be given meaning and effect only to the extent that the general terms suggest items similar to those designated by the specific terms. In short, specific terms modify or restrict the application of general terms where both are used in sequence.

*Dean v. McFarland*, 81 Wn.2d 215, 221, 500 P.2d 1244, 1248 (1972). The ejusdem generis rule is especially applicable here because RCW 84.36.070(2)(c) is explicitly limited to "intangible personal property *such as*. . ." the specific examples. (Emphasis added). The statute's interpretive rules even explain that RCW 84.36.070(2)(c) is limited to the specific examples listed and "and other *similar* types of intangible personal property." WAC 458-50-160 (emphasis added).

The specific terms listed in RCW 84.36.070(2)(c) — intellectual property, licenses, contracts, customer lists, and aspects of business good will — are all quite different than income. RCW 84.36.070(2)(c) therefore does not encompass income.

**2. Interpreting RCW 84.36.070 to prohibit taxes on income would conflict with the Legislature's B&O tax.**

Burke and Levine plaintiffs' argument that RCW 84.36.070 prohibits *ad valorem* taxes on income must also be rejected because it is inconsistent with the Legislature's B&O tax. The B&O tax "is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be." RCW 82.04.220. If Burke and Levine plaintiffs were correct that RCW 84.36.070 prohibits taxing a percent of income, it would directly conflict with RCW 82.04.220. The Legislature presumably did not intend for RCW 84.36.070 to be

interpreted in such a manner. *Waste Mgmt. v. Utils. & Transp. Comm'n*, 123 Wn.2d 621, 630, 869 P.2d 1034, 1039 (1994) ("[W]e will read statutes as complementary, rather than in conflict with each other.")

Furthermore, it is not plausible that the Legislature intended to invalidate its own B&O tax and the B&O taxes of numerous jurisdictions across the state, thereby eliminating a major source of revenue, all without mentioning anything of the sort. *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318, 320 (2003) (Courts "cannot add words or clauses to an unambiguous statute when the legislature has chosen not to include that language," and "a reading that results in absurd results must be avoided because it will not be presumed that the legislature intended absurd results." (Internal citations omitted)).

The Court's decision appropriately avoids unintended conflicts and absurd results by holding that RCW 84.36.070 does not apply to income. Op. at 12 n. 58. That decision should stand.

## IV. CONCLUSION

The Motion does not raise any arguments that would affect the outcome of the Court's decision. The arguments that are presented fall apart under the slightest scrutiny. Reconsideration is not warranted.

Respectfully submitted this 23rd day of September 2019.

*/s/ Claire E. Tonry*
Knoll D. Lowney, WSBA No. 23457
Claire E. Tonry, WSBA No. 44497
Smith & Lowney, PLLC
2317 E. John St., Seattle, WA 98112
(206) 860-2883

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Response to Burke and Levine Plaintiffs' Motion for Reconsideration to be served on counsel for all other parties in this matter via this Court's e-filing platform.

Dated this 23rd day of September 2019.

*/s/ Claire E. Tonry*

# APPENDIX

# Exhibit 1

REPORT OF STANDING COMMITTEE

JANUARY 18, 1984

SENATE BILL NO. 4313

(Type in brief title exactly as it appears on back cover of original bill)

Authorizing the formation of combined city and county municipal corporations under Art. XI, section 16 of the Constitution

(reported by Committee on Local Government): (7)

Recommendation - Majority

____ Do pass

____ Do pass as amended

✓ That Substitute Senate Bill No. 4313 be substituted therefor, and the substitute bill do pass

____ Other ____

Thompson, Chairman
Bauer, Vice Chairman
Barr
Granlund
McCaslin
Woody
Zimmerman

Alan Thompson, Chairman

Al Bauer, Vice Chairman

Scott Barr

Barbara Granlund

Bob McCaslin

Dianne Woody

Hal Zimmerman

Passed to Committee on Rules for Second Reading

# Exhibit 2

# Report of Standing Committee

**HOUSE OF REPRESENTATIVES**
*Olympia, Washington*

February 17, 1984
(date)

SUBSTITUTE SENATE BILL No. 4313
(Type in House or Senate Bill, Resolution, or Memorial)

*Prime Sponsor* Committee on Local Government

Authorizing the formation of combined city and county municipal corporations under
(Type in brief title exactly as it appears on back cover of original bill)
Article XI, section 16 of the Constitution.

*reported by Committee on* LOCAL GOVERNMENT (18)

☒ *MAJORITY recommendation: Do Pass.*

☐ *MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass.*

☐ *MAJORITY recommendation: Do pass with the following amendment(s):*

*Signed by* (15)
*Representatives*

MOON, *Chairman*
HAUGEN, *Vice Chairman*
ALLEN
BALLARD
BROBACK
~~BROUGH~~
CHANDLER
~~CHARNLEY~~
EBERSOLE
EGGER
GARRETT
GRIMM
HINE
ISAACSON
SMITHERMAN
~~TODD~~
VAN DYKEN
VAN LUVEN

ATTACHMENT: Committee Roll Call Vote

☐ Check here if Minority Report Requested (see back)

# Exhibit 3

COMMITTEE: SENATE LOCAL GOVERNMENT COMMITTEE

DATE: January 11, 1984

BILL NO. SENATE BILL No. 4313

SHORT TITLE: Authorizing the formation of combined city & County municipal corporations under Art. XI, section 16 of the Constitution

ATTENDANCE ROSTER

| PLEASE PRINT NAME | ORGANIZATION | MAILING ADDRESS | PHONE | WISH TO TESTIFY? (YES/NO) | IF SO, PRO/CON |
|---|---|---|---|---|---|
| PLEASE PRINT Kent Swisher | AWC | STREET CITY ZIP | 3-4137 | yes | Pro |
| PLEASE PRINT Margaret Anderson | Past State Rep | STREET CITY ZIP 1117 East Millwood - Spokane | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |
| PLEASE PRINT | | STREET CITY ZIP | | | |

The President declared the question before the Senate to be the roll call on final passage of Engrossed Senate Bill No. 4309.

ROLL CALL

The Secretary called the roll on final passage of Engrossed Senate Bill No. 4309, and the bill passed the Senate by the following vote: Yeas, 48; nays, 00; absent, 00; excused, 01.

Voting yea: Senators Barr, Bauer, Bender, Benitz, Bluechel, Bottiger, Clarke, Conner, Craswell, Deccio, Fleming, Fuller, Gaspard, Goltz, Granlund, Guess, Haley, Hansen, Hayner, Hemstad, Hughes, Hurley, Kiskaddon, Lee, McDermott, McDonald, McManus, Metcalf, Moore, Newhouse, Owen, Patterson, Peterson, Pullen, Quigg, Rasmussen, Rinehart, Sellar, Shinpoch, Talmadge, Thompson, Vognild, von Reichbauer, Warnke, Williams, Wojahn, Woody, Zimmerman – 48.

Excused: Senator McCaslin – 1.

ENGROSSED SENATE BILL NO. 4309, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTIONS

On motion of Senator Shinpoch, the Senate advanced to the eighth order of business.

On motion of Senator Shinpoch, the Committee on Judiciary was relieved of further consideration of Senate Bills No. 4670, 4671, 4672, 4675 and 4730.

On motion of Senator Shinpoch, Senate Bills No. 4670, 4671, 4672, 4675 and 4730 were referred to the Committee on Social and Health Services.

On motion of Senator Shinpoch, the Committee on Social and Health Services was relieved of further consideration of Senate Bill No. 4685.

On motion of Senator Shinpoch, Senate Bill No. 4685 was referred to the Committee on Judiciary.

On motion of Senator Shinpoch, the Committee on State Government was relieved of further consideration of Senate Bill No. 4687 and Senate Bill No. 4731.

On motion of Senator Shinpoch, Senate Bill No. 4687 and Senate Bill No. 4731 were referred to the Committee on Ways and Means.

There being no objection, the President reverted the Senate to the first order of business.

REPORTS OF STANDING COMMITTEES

January 18, 1984

SB 4290 Prime Sponsor, Senator Gaspard: Exempting fish farming from excise taxation. Reported by Committee on Ways and Means

MAJORITY recommendation: Do pass. Signed by Senators McDermott, Chairman; Gaspard, Vice Chairman; Bauer, Bottiger, Craswell, Deccio, Fleming, Hayner, Hughes, Lee, McDonald, Rinehart, Shinpoch, Talmadge, Thompson, Wojahn, Woody, Zimmerman.

Passed to Committee on Rules for second reading.

January 18, 1984

SB 4313 Prime Sponsor, Senator Thompson: Authorizing the formation of combined city and county municipal corporations under Article XI, section 16 of the Constitution. Reported by Committee on Local Government

MAJORITY recommendation: That Substitute Senate Bill No. 4313 be substituted therefor, and the substitute bill do pass. Signed by Senators Thompson, Chairman; Bauer, Vice Chairman; Granlund, Woody.

Passed to Committee on Rules for second reading.

January 17, 1984

SB 4339 Prime Sponsor, Senator Peterson: Modifying tuition and fees for institutions of higher education. Reported by Committee on Ways and Means

MAJORITY recommendation: Do pass. Signed by Senators McDermott, Chairman; Gaspard, Vice Chairman; Bauer, Fleming, Hughes, Rinehart, Shinpoch, Talmadge, Thompson, Warnke, Wojahn, Woody.

excluded from this without being penalized. As I said, this bill does not restrict licensed or certified persons, dietitians employed by the federal government, cooperative extensions, home economists, anybody studying for a degree in dietetics, and it goes on and on to make darn sure that we don't exclude these people who are interested and practicing in this field."

The President declared the question before the Senate to be the roll call on final passage of Substitute Senate Bill No. 4379.

ROLL CALL

The Secretary called the roll on final passage of Substitute Senate Bill No. 4379 and the bill passed the Senate by the following vote: Yeas, 36; nays, 11; absent, 01; excused, 01.

Voting yea: Senators Bauer, Bender, Bottiger, Conner, Deccio, Fleming, Fuller, Gaspard, Goltz, Granlund, Guess, Hansen, Hayner, Hemstad, Hughes, Hurley, Kiskaddon, McDermott, McManus, Moore, Newhouse, Patterson, Peterson, Rasmussen, Rinehart, Sellar, Shinpoch, Talmadge, Thompson, Vognild, von Reichbauer, Warnke, Williams, Wojahn, Woody, Zimmerman – 36.

Voting nay: Senators Barr, Bluechel, Clarke, Craswell, Haley, McCaslin, McDonald, Metcalf, Owen, Pullen, Quigg – 11.

Absent: Senator Lee – 1.

Excused: Senator Benitz – 1.

SUBSTITUTE SENATE BILL NO. 4379, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 3240, by Senator Lee (by Joint Administrative Rules Review Committee request)

Conforming lobbyist employer reporting requirements with lobbyist reporting requirements.

The bill was read the second time.

MOTION

On motion of Senator Warnke, the rules were suspended, Senate Bill No. 3240 was advanced to third reading, the second reading considered the third, and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on final passage of Senate Bill No. 3240.

ROLL CALL

The Secretary called the roll on final passage of Senate Bill No. 3240 and the bill passed the Senate by the following vote: Yeas, 38; nays, 09; absent, 01; excused, 01.

Voting yea: Senators Barr, Bauer, Bluechel, Bottiger, Clarke, Conner, Craswell, Deccio, Fuller, Gaspard, Goltz, Guess, Haley, Hansen, Hayner, Hemstad, Kiskaddon, Lee, McCaslin, McDonald, McManus, Metcalf, Moore, Newhouse, Owen, Patterson, Peterson, Pullen, Quigg, Rasmussen, Sellar, Thompson, Vognild, von Reichbauer, Warnke, Wojahn, Woody, Zimmerman – 38.

Voting nay: Senators Bender, Fleming, Granlund, Hughes, Hurley, McDermott, Rinehart, Talmadge, Williams – 9.

Absent: Senator Shinpoch – 1.

Excused: Senator Benitz – 1.

SENATE BILL NO. 3240, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 4313, by Senators Thompson, Zimmerman, Hemstad and Moore

Authorizing the formation of combined city and county municipal corporations under Article XI, section 16 of the Constitution.

MOTIONS

On motion of Senator Thompson, Substitute Senate Bill No. 4313 was substituted for Senate Bill No. 4313 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Thompson, the rules were suspended, Substitute Senate Bill No. 4313 was advanced to third reading, the second reading considered the third, and the bill was placed on final passage.

The President declared the question before the Senate to be the roll call on final passage of Substitute Senate Bill No. 4313.

ROLL CALL

The Secretary called the roll on final passage of Substitute Senate Bill No. 4313 and the bill passed the Senate by the following vote: Yeas, 43; nays, 05; absent, 00; excused, 01.

Voting yea: Senators Barr, Bauer, Bender, Bluechel, Bottiger, Clarke, Conner, Deccio, Fleming, Fuller, Gaspard, Goltz, Granlund, Guess, Haley, Hansen, Hayner, Hemstad, Hughes, Hurley, Kiskaddon, Lee, McDermott, McDonald, McManus, Moore, Newhouse, Owen, Patterson, Peterson, Rasmussen, Rinehart, Sellar, Shinpoch, Talmadge, Thompson, Vognild, von Reichbauer, Warnke, Williams, Wojahn, Woody, Zimmerman – 43.

Voting nay: Senators Craswell, McCaslin, Metcalf, Pullen, Quigg – 5.

Excused: Senator Benitz – 1.

SUBSTITUTE SENATE BILL NO. 4313, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 4722, by Senators Thompson, Zimmerman and Barr

Modifying the qualifications for the office of county sheriff.

MOTIONS

On motion of Senator Thompson, Substitute Senate Bill No. 4722 was substituted for Senate Bill No. 4722 and the substitute bill was placed on second reading and read the second time.

On motion of Senator Thompson, the rules were suspended, Substitute Senate Bill No. 4722 was advanced to third reading, the second reading considered the third, and the bill was placed on final passage.

Debate ensued.

POINT OF INQUIRY

Senator Patterson: "Senator Thompson, I noted that there was no fiscal note requested. Now, with the educational requirements in this bill, I would hope and is it your understanding that all the costs of the annual training of the sheriff and additional training that might be required, will be borne by the sheriff's office or was it the intent that the state legislature would appropriate money for this purpose?"

Senator Thompson: "Senator Patterson, this legislation would not require any state expenditure. Some of the educational requirements will have been obtained and the monies probably expended before a candidacy ever occurs, if in the course of the professional development of the candidate that those that are required following incumbency will be borne by the local unit of government."

Further debate ensued.

The President declared the question before the Senate to be the roll call on final passage of Substitute Senate Bill No. 4722.

ROLL CALL

The Secretary called the roll on final passage of Substitute Senate Bill No. 4722 and the bill passed the Senate by the following vote: Yeas, 26; nays, 22; absent, 00; excused, 01.

Voting yea: Senators Barr, Bender, Bottiger, Conner, Deccio, Fuller, Goltz, Granlund, Haley, Hansen, Hemstad, Hughes, Hurley, McCaslin, McDermott, Metcalf, Moore, Newhouse, Owen, Patterson, Peterson, Sellar, Talmadge, Thompson, Vognild, Wojahn – 26.

NEW SECTION. Sec. 3. (1) There is created the joint select committee on public health. The committee shall consist of the following members:

(a) Two majority members and two minority members of the senate, to be appointed by the president of the senate;

(b) Two majority members and two minority members of the house of representatives, to be appointed by the speaker of the house of representatives;

(c) The chair of the state board of health or the chair's designee;

(d) The chair of the state health coordinating council or the chair's designee;

(e) The director of the department of veterans affairs or the director's designee;

(f) The secretary of social and health services or the secretary's designee;

(g) A local public health official to be appointed by the president of the senate and the speaker of the house of representatives acting jointly;

(h) A physician licensed under chapter 18.71 RCW to be appointed by the president of the senate and the speaker of the house of representatives acting jointly; and

(i) Two persons who have demonstrated an interest in public health. One of these persons shall be appointed by the president of the senate and the other shall be appointed by the speaker of the house of representatives.

(2) Legislative members of the committee shall be reimbursed for travel expenses by their respective houses as provided under RCW 44.04.120. Nonlegislative members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. The cost of travel expenses for members appointed under subsection (1) (h) and (i) of this section shall be paid by the senate and the house of representatives, the costs to be divided equally between the two houses.

(3) The committee shall study issues pertaining to public health and report its conclusions and recommendations to the legislature by January 1, 1986, on which date the committee shall cease to exist."

Signed by Representatives Niemi, Chair; Vekich, Vice Chair; Belcher, Bond, Hankins, Johnson, Kaiser, R. King, Lux, Nealey, D. Nelson, O'Brien, Sayan, Silver, Taylor and Walk.

Voting nay: Representative Taylor.

Absent: Representative J. Williams.

Passed to Committee on Rules for second reading.

February 17, 1984

SSB 4313 Prime Sponsor, Committee on Local Government: Authorizing the formation of combined city and county municipal corporations under Article XI, section 16 of the Constitution. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Moon, Chair; Haugen, Vice Chair; Allen, Ballard, Broback, Charnley, Ebersole, Egger, Garrett, Grimm, Hine, Isaacson, Smitherman, Van Dyken and Van Luven.

Voting nay: Representatives Brough, Chandler and Van Dyken.

Absent: Representative Todd.

Passed to Committee on Rules for second reading.

February 17, 1984

SSB 4326 Prime Sponsor, Committee on Commerce & Labor: Re-defining the permissible political activities in which employment security department employees may engage. Reported by Committee on Constitution, Elections & Ethics

MAJORITY recommendation: Do pass. Signed by Representatives Pruitt, Chair; Fisch, Vice Chair; Jacobsen, Long, Patrick, Schoon, Sommers and Zellinsky.

Absent: Representatives Barnes, Fisher, Miller, Scott and Vander Stoep.

Passed to Committee on Rules for second reading.

February 16, 1984

SB 4338 Prime Sponsor, Senator Peterson: Removing restrictions on motor vehicle renewals. Reported by Committee on Transportation

O'Brien, Padden, Patrick, Powers, Pruitt, Rust, Sanders, Sayan, Schmidt, Schoon, Scott, Silver, Smith C, Smith L, Smitherman, Sommers, Stratton, Sutherland, Tanner, Taylor, Tilly, Todd, Van Luven, Vander Stoep, Walk, Wang, West, Williams B, Williams J, Wilson, Zellinsky, and Mr. Speaker – 84.

Voting nay: Representatives Bond, Chandler, Clayton, Dickie, Fuhrman, Hankins, Hastings, Isaacson, Nealey, Prince, Struthers – 11.

Excused: Representatives King R, Van Dyken, Vekich – 3.

Engrossed Senate Joint Memorial No. 131, having received the constitutional majority, was declared passed.

The Speaker declared the House to be at ease.

The Speaker (Mr. O'Brien presiding) called the House to order.

SUBSTITUTE SENATE BILL NO. 4313, by Committee on Local Government (originally sponsored by Senators Thompson, Zimmerman, Hemstad and Moore)

Authorizing the formation of combined city and county municipal corporations under Art. XI, section 16 of the Constitution.

The bill was read the second time.

Mr. Vander Stoep moved adoption of the following amendment:

On page 2, after line 11 insert:

"NEW SECTION. Sec. 8. There is added to chapter 82.08 RCW a new section to read as follows:

(1) There is levied and there shall be collected an additional tax on each retail sale in border counties in this state equal to one and one-tenth percent of the selling price.

(2) The rate provided in this section applies to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020."

POINT OF ORDER

Mr. Heck: "Mr. Speaker, I would ask that you rule on whether or not this proposed amendment is within the scope and object of Substitute Senate Bill 4313."

SPEAKER'S RULING (MR. O'BRIEN PRESIDING)

The Speaker (Mr. O'Brien presiding): "Representative Heck, your point is well taken. The bill pertains to consolidation of city and county and of the method of allocating state revenue in connection with the consolidation. The amendment pertains to border counties and the collection of sales tax and increasing that tax. Your point is well taken; the amendment is out of order."

On motion of Mr. Wang, the rules were suspended, the second reading considered the third, and the bill was placed on final passage.

Representatives Moon and Brough spoke in favor of passage of the bill.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 4313, and the bill passed the House by the following vote: Yeas, 94; nays, 1; excused, 3.

Voting yea: Representatives Addison, Allen, Appelwick, Armstrong, Ballard, Barnes, Barrett, Belcher, Betrozoff, Bond, Braddock, Brekke, Broback, Brough, Burns, Cantu, Chandler, Charnley, Clayton, Crane, Dellwo, Dickie, Ebersole, Egger, Ellis, Fisch, Fisher, Fiske, Fuhrman, Gallagher, Galloway, Garrett, Grimm, Halsan, Hankins, Haugen, Heck, Hine, Holland, Isaacson, Jacobsen, Johnson, Kaiser, King J, King P, Kreidler, Lewis, Locke, Long, Lux, McClure, McMullen, Miller, Mitchell, Monohon, Moon, Nealey, Nelson D, Nelson G, Niemi, O'Brien, Padden, Patrick, Powers, Prince, Pruitt, Rust, Sanders, Sayan, Schmidt, Schoon, Scott, Silver, Smith C, Smith L, Smitherman, Sommers, Stratton, Struthers, Sutherland, Tanner, Taylor, Tilly, Todd, Van Luven, Vander Stoep, Walk, Wang, West, Williams B, Williams J, Wilson, Zellinsky, and Mr. Speaker – 94.

Voting nay: Representative Hastings – 1.

Excused: Representatives King R, Van Dyken, Vekich – 3.

Substitute Senate Bill No. 4313, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SMITH & LOWNEY

## September 23, 2019 - 2:40 PM

## Transmittal Information

| | |
|---|---|
| **Filed with Court:** | Court of Appeals Division I |
| **Appellate Court Case Number:** | 79447-7 |
| **Appellate Court Case Title:** | City of Seattle, Appellant/Cr-Respondent v. S. Michael Kunath, Respondent/Cr-Appellant |

**The following documents have been uploaded:**

- 794477_Answer_Reply_to_Motion_20190923143636D1879803_7460.pdf
  This File Contains:
  Answer/Reply to Motion - Response
  *The Original File Name was EOI Resp to Mot for Reconsider_Final_190923.pdf*

**A copy of the uploaded files will be sent to:**

- Dawn.taylor@pacificalawgroup.com
- EStahlfeld@freedomfoundation.com
- JFlesner@perkinscoie.com
- aharksen@ci.olympia.wa.us
- bth@pacificlegal.org
- cindy.bourne@pacificalawgroup.com
- ddunne@orrick.com
- edwardss@lanepowell.com
- ewb@pacificlegal.org
- galexander@bgwp.net
- greg.wong@pacificalawgroup.com
- hgreenwo@cityofpa.us
- hstrasberg@comcast.net
- hstrasberg@me.com
- iglitzin@workerlaw.com
- jamie.lisagor@pacificalawgroup.com
- jdefrang@cityofpa.us
- kathy@johnstongeorge.com
- kent.meyer@seattle.gov
- knoll@smithandlowney.com
- lawyer@stahlfeld.us
- lise.kim@seattle.gov
- matt@davisleary.com
- matt@tal-fitzlaw.com
- matthew@davisleary.com
- mbarber@ci.olympia.wa.us
- mcbrider@lanepowell.com
- owens@workerlaw.com
- paul.lawrence@pacificalawgroup.com
- phil@tal-fitzlaw.com
- rmahon@perkinscoie.com
- rmckenna@orrick.com
- robbins@workerlaw.com

- scot@johnstongeorge.com
- sea_wa_appellatefilings@orrick.com
- sheilag@awcnet.org
- spitzerhd@gmail.com
- tricia.okonek@pacificalawgroup.com
- wbloor@cityofpa.us
- woodward@workerlaw.com

**Comments:**

---

Sender Name: Kai McDavid - Email: kai@smithandlowney.com
**Filing on Behalf of:** Claire Elizabeth Tonry - Email: claire@smithandlowney.com (Alternate Email: )

Address:
2317 E John St
Seattle, WA, 98112
Phone: (206) 860-1570

**Note: The Filing Id is 20190923143636D1879803**